

CHAPTER NO. 577

SENATE BILL NO. 1247

By Herron, Burks, Kyle, Kurita, Crowe, Williams

Substituted for: House Bill No. 1334

By Buck, Hargrove, Mumpower, Ralph Cole, Boyer, West, Kisber, Kent, Sands, Fitzhugh, Maddox, Godsey, Montgomery, White, Todd, Stulce, Ford, McDaniel, Brenda Turner, Walker, McAfee,
Mr. Speaker Naifeh

AN ACT To amend Tennessee Code Annotated, Title 40, Chapter 38, Part 1, relative to victims' rights.

WHEREAS, On November 3, 1998, the voters of Tennessee ratified an amendment to Article I, of the Constitution of Tennessee, relative to the rights to which victims of crimes are entitled; and

WHEREAS, This amendment establishes certain constitutional rights to victims of crimes in Tennessee; and

WHEREAS, It is necessary that legislation be enacted to define "critical stages" as used in the Victims' Rights Constitutional Amendment in order to implement the Victims' Rights Constitutional Amendment; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 38, is amended by adding the following as a new Part 3:

§ 40-38-301.

(a) It is the intent of the General Assembly by enactment of this act to implement and make fully operational the provisions of Article I, Section 35 of the Constitution of Tennessee, relative to the rights of victims of crime. The proposed amendment that became Article I, Section 35 was ratified by the voters of Tennessee at the November 3, 1998 general election but there was some question as to whether it required the General Assembly to define certain terms before the amendment could be implemented and in full force and effect.

(b) It is the further intent of the General Assembly that this part only govern the implementation of Article I, Section 35. If any other provision of law confers additional, enhanced or more expansive rights upon victims of crime than are set out in this part or Article I, Section 35, a victim shall also be entitled to such additional, enhanced or expansive statutory rights.

(c) If any other provision of law contains a broader definition of "crime", "victim" or "critical stages of the criminal justice process" for any purpose other than implementation of Article I, Section 35, the broader definition shall control for such purpose.

§ 40-38-302. As used in this part:

(a) "Crime" means:

- (1) Any offense the punishment for which is a Class A, B, C, D or E felony;
- (2) First degree murder; or
- (3) Assault under § 39-13-101(a)(1).

(b) "Critical stages of the criminal justice process" are:

- (1) Bond hearings or bond reduction hearings if hearing from the victim is deemed relevant by the appropriate district attorney general;
- (2) The defendant's sentencing hearing;
- (3) Any hearing at which the issue of whether the defendant should pay restitution or the amount of restitution that should be paid is discussed; and
- (4) Any parole hearing at which the defendant's release on parole will be discussed or determined.

(c) "Family member" means the victim's spouse, natural parent, child, adopted child, grandparent, grandchild, stepparent, adoptive parent, or brother or sister of the whole or half-blood or by adoption. If a "family member" is a minor, such minor may be represented by a guardian where appropriate.

(d) "Victim" means:


- (1) A natural person against whom a crime was committed;
- (2) If the victim is a minor, then the parent or legal guardian of the minor; or
- (3) If the victim is deceased or is physically or emotionally unable to exercise his or her rights, then the following persons, or their designees, in the order of preference in which they are listed:
 - (A) A family member; or
 - (B) A person who resided with the victim.

(e) "Victim" does not include any person charged with or alleged to have committed the crime or who is charged with some form of criminal responsibility for commission of the crime.

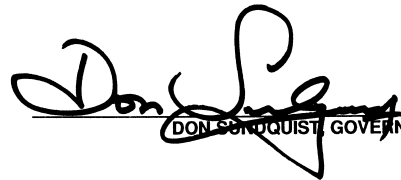
SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it and on such date the provisions of Article I, Section 35 of the Constitution of Tennessee are implemented, operational and in full force and effect.

PASSED: March 1, 2000


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 10th day of March 2000


DON SUNDQUIST, GOVERNOR